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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1206th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-15947 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh periodic report of Mexico (CERD/C/296/Add.1; HRI/CORE/1/Add.12/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of Mexico took seats at the Committee table.

2. Mr. GONZALEZ FELIX (Mexico) said that, as requested by the Committee, the eleventh periodic report (CERD/C/296/Add.1) was an updating report and would concentrate primarily on the situation of the indigenous populations in Mexico, including the present situation in the State of Chiapas, and questions of migration, on both the northern and southern borders of the country.

3. His Government acknowledged the existence of certain forms of racial discrimination in the country which were the result of historical factors going back to the nineteenth century. Some forms of discrimination had more to do with socio-economic differences than with any distinction between ethnic groups and had been addressed through various government social development programmes for the most vulnerable groups, namely, indigenous and other marginalized communities in both urban and rural areas. Extreme poverty among indigenous communities and the situation of migrants were also results of population growth.

4. Some of the information provided in the report needed updating, since the Government was pursuing its efforts to improve the lot of the indigenous populations and migrants and to achieve a just and worthy peace in Chiapas. Between October 1995 and May 1996, a nationwide consultation on rights and indigenous participation, involving some 23,000 persons from all sectors of society through meetings and events of various kinds, had been held under the auspices of the federal executive and legislative authorities in order to broaden the debate and exchange views with the ultimate aim of achieving national consensus on the new relationship between the Mexican State and the indigenous peoples. The consultation had yielded 12,000 proposals on a wide variety of issues and confirmed the existence of 56 languages spoken by some 10 million Mexicans.

5. In May 1996, its main conclusions had been formally submitted to the President of the Republic, who had referred in his statement on that occasion to the concept of autonomy, which should be seen as conducive to the development of the indigenous peoples without undermining national sovereignty or unity. Summing up the findings of the consultation, which would form the basis for the new relationship between the State and the indigenous peoples, he had referred to its recommendation on the need to amend the Constitution and relevant laws in order to provide clear guarantees for indigenous rights, specify the equality of all Mexicans and ensure that indigenous communities were duly represented in public life. The reforms should guarantee their effective access to justice and their languages and customs should be taken into account in the administration of justice. Their lands and heritage must be legally protected, bilingual multicultural education guaranteed and the rights of indigenous women upheld. A series of reforms of federal legislation

must be undertaken. The indigenous communities must become active participants in development, which should be based on their cultural diversity, traditions and customs. The President had affirmed the Federal Government's commitment to following the recommendations of the nationwide consultation through specifically targeted programmes in the areas of health, education, nutrition, housing, public services, communication, training, the promotion of productive activities and access to justice, including legal aid and the use of indigenous languages. He had reaffirmed the multicultural, multi-ethnic character of the nation.

6. The Government had taken significant steps to promote the educational and cultural development of the indigenous peoples and eradicate all forms of apparent racial discrimination. It had undertaken to build a new social compact which would radically change the social, political, economic and cultural relations with indigenous peoples and enable them effectively to enjoy their rights; the new relationship would be based on respect for the right to be different, recognition of indigenous identities as intrinsic components of Mexican nationhood and acceptance of their distinctive features as being consubstantial with the multicultural legal order of the Mexican State. It was a relationship of inclusion, permanent dialogue and consensus, so that the indigenous peoples could themselves determine the means of achieving their own development. Mexico was currently undergoing a process of self-assessment and enhancement of its traditional indigenous values with a view to rebuilding a unified nation that would be the Mexican model for the twenty-first century.

7. The Government had recognized the need to enshrine in the Constitution the right of all Mexicans to multicultural education rooted in indigenous culture as the foundation of national identity and was promoting laws and policies to place indigenous languages on an equal footing with Spanish, together with practices to ensure that there was no discrimination in administrative and legal procedures. While developing the teaching of indigenous languages and literacy instruction in the mother tongue, the necessary steps were being taken to enable indigenous people to acquire proficiency in Spanish. The Government was committed to providing education for the indigenous peoples within the parameters of their own cultural identity and was allocating the necessary resources to carry out the educational and cultural programmes determined by the indigenous communities and peoples themselves, in order to ensure free, high-quality education. Their involvement in selecting and certifying teachers was also encouraged.

8. Turning to the question of indigenous detainees, he said that his Government had amended article 4 of the Constitution to bring it into line with ILO Convention No. 169. An important development had been the signing of a cooperation agreement between the General Directorate for Prevention and Social Rehabilitation and the National Indigenous Institute to investigate the cases of indigenous individuals held in detention centres with a view to enabling them to return to their communities and securing their early release. The participation of the National Human Rights Commission (CNDH) had resulted in the early release of most of the individuals whose cases had been put forward by the Commission. The recently created office of the Special Procurator for Indigenous Affairs had provided legal assistance for the review of the records of detainees, and in the previous 12 months 31,950 cases had

been reviewed. In the same period, the work of the General Directorate for Prevention and Social Rehabilitation had resulted in the release of 438 indigenous detainees.

9. Turning to the current status of the peace process in the State of Chiapas, he reaffirmed the Government's political will to achieve peace through dialogue and negotiation, despite unilateral decisions by the Zapatista National Liberation Army (ZNLA) - eight in all - to suspend the negotiations. It regarded the current suspension as temporary and was prepared to resume them at any time, in accordance with the Dialogue, Conciliation and Worthy Peace in Chiapas Act. In 1996, ZNLA had suspended the talks on two occasions, most recently in September 1996, when it had laid down five additional conditions for resuming them. Even though that decision violated the spirit of the July 1996 agreements under which only the Concord and Peace Commission (COCOPA) and the National Mediation Commission (CONAI) were authorized to suspend the dialogue, the Government had restated its willingness to meet those conditions and guarantee that no coercive action would be taken. Specifically, it had freed the alleged Zapatista detainees in Cacalomacán and Yanga. With regard to the attitude of the government negotiators and their decision-making capacity, the Government had reiterated its commitment to an attitude of respect for the ZNLA delegates and had reaffirmed its representatives' full decision-making authority in regard to any item on the jointly agreed agenda.

10. The Commission for Monitoring and Verification of the Peace Agreements (COSEVER) had been set up on 7 November 1996. At its first meeting in December 1996, initial agreements had been reached on resources and working methods and its first coordinator had been appointed for a period of three months. The Government had undertaken to submit the Indigenous Rights Bill to ZNLA before it was forwarded to Congress through COCOPA. The Government and ZNLA had exchanged documents and views on the drafting of the constitutional reform, but no agreement had been reached as yet, mainly on account of ZNLA's rejection in January 1997 of the Federal Government's observations, which had in fact amounted merely to legal technicalities relating to the constitutionality of the proposed reforms. On 4 March 1997, COCOPA had issued a communication intended for the Federal Government, ZNLA and public opinion in general, proposing its good offices in meeting the parties and seeking solutions. COCOPA's efforts, and those of CONAI, were much appreciated by the Government, which had restated its determination to find a solution through dialogue and negotiation and demonstrated its desire for reconciliation and renewed confidence in its dealings with ZNLA, inter alia by associating two leading members of ZNLA with the peace process. All the conditions laid down by ZNLA had therefore been met, with the exception of the incorporation into the Constitution of the San Andrés agreements on rights and indigenous culture, to which no definitive solution had as yet been found, the main reason being the very extensive scope of the agreements and their impact on secondary legislation and administrative and institutional procedures.

11. The Government did not repudiate those agreements and had no intention of renegotiating them, but had submitted observations on COCOPA'a proposals for constitutional amendments, calling for a revision of the proposed texts to ensure that they were clearly worded. The Government believed that ZNLA's objections to those observations could be explained by its unfamiliarity with

juridical and legislative procedure rather than any intransigence on the Government's part. Talks were continuing with a view to reaching a consensus on the wording. The delay on that point was, therefore, merely a formal setback.

12. The National Programme for the Protection of Migrants, carried out in coordination with the National Migration Institute, responded to the Government's commitment to safeguarding human rights, implementing international agreements and protecting the rights of Mexicans in the United States of America. Under the Programme, protection groups for migrants, now numbering five on the northern border and one on the southern border, had been set up as a cooperative mechanism between the federal, State and municipal Governments, coordinated by the National Migration Institute, to combat criminal offences by individuals or officials against migrants, whether or not they were in possession of documents. A particularly important development had been the establishment in May 1996 of the Beta Sur migrant protection group operating in Soconusco, Chiapas, following a recommendation by the National Human Rights Commission. The protection groups had proved their effectiveness by significantly reducing the rate of crimes against migrants.

13. The authorities had compiled a human rights primer for migrants which was intended to inform them of their rights under the Constitution and other laws in Mexico, their obligations during their stay in Mexico and the institutions they could turn to for help or to lodge complaints. The primer was being distributed by a number of bodies in Mexico and Mexican consulates abroad.

14. In 1995, the Migration Supervision Programme had been launched. It provided for constant supervision of activities and procedures relating to the inspection, monitoring and control of migrants by officials of the National Migration Institute, and of migrants' rights. The Programme was initially operating in the State of Chiapas but would ultimately be extended to cover all migration offices.

15. With a view to promoting respect for human rights among staff dealing with migrants, human rights training courses had been organized for migration officials and officials called on to deal with foreigners without documents. The National Human Rights Commission and UNHCR had provided assistance in that regard. The Government was also trying to improve conditions in centres where migrants were held while their status was being determined.

16. In 1995, a framework for cooperation between the Governments of Mexico and the United States had been set up, to improve communication between the border authorities of both countries and ensure respect for the human rights of migrants on both sides of the border. Similar structures had been set up in collaboration with the Governments of Guatemala, Honduras and Costa Rica; it was hoped that they would be extended to include the Governments of El Salvador and Nicaragua.

17. With regard to policies for protecting Mexicans in the United States and ensuring that they enjoyed adequate standards of living and respect for their

human rights, of particular note was the National Development Plan 1995-2000, which aimed, inter alia, to provide comprehensive consular protection.

18. In the area of protection measures, his Government believed that the best way to deal with problems relating to migration was to engage in dialogue and bilateral cooperation. To that end, the United States Immigration and Naturalization Service had set up a Citizens' Advisory Panel to look into how the Department of Justice dealt with complaints against border guards. The Department of Justice had invited his Government to send a representative to participate in the Panel.

19. In March 1996, his Government had held a meeting on migration which had been attended by Governments of the region. The meeting had stressed the importance of an exchange of views and experience on the phenomenon of migration and the need to examine why and how it arose and its regional aspects in order to decide how the Governments could best work together to deal with it.

20. A pilot programme had been set up in San Diego, California, for the voluntary repatriation of Mexicans who had been arrested by the migration authorities in the city. The programme provided for the repatriation of the person concerned to his place of origin, whereas before the only options had been for him to voluntarily return to a border port or to go before a judge who dealt with migration cases. The programme aimed to promote family reintegration and provide special protection for minors.

21. For his Government, protection meant improving preventive measures and modernizing the system of consular protection in the United States. New life had been breathed into intersectoral coordination, which had helped reduce the number of violations and complaints. Consulates were helping to publicize the "Compatriot Programme (Programa Paisano)" through the Spanish-speaking media. They were also disseminating information to migrants on their rights and responsibilities while they were in the United States. They provided advice on contacts with the American authorities in order to reduce any possibility of ill-treatment and their right to contact the consulate if they were ill-treated. The Consulate Development Plan 1996-2000 had been launched in the second half of 1996. It provided for a broad range of measures to improve the coordination of the Mexican consular system, increase the efficiency of human and material resources, and modernize working methods.

22. A system of "mobile consulates" had been set up in the United States: consular officials visited the various Mexican communities living within the districts they covered in order to make consular services more accessible. The system had gathered momentum since its inception, and it was hoped that it could become a permanent feature of the work of all consulates in the United States.

23. With a view to improving legal services, consulates had been instructed to expand the network of legal advisers and find lawyers, preferably of Mexican origin, who could defend the rights of Mexicans in the United States. An agreement had been signed between the Consulate-General in Los Angeles, California, and the Mexican-American Lawyers' Association for the provision of free legal advice to Mexicans.

24. A programme had also been launched to bring together and provide for ongoing dialogue among authorities and leaders of social groups from the States, municipalities and areas of origin of migrants in order to find out how they viewed the phenomenon of migration and what kinds of protection needed to be provided.

25. His Government recognized that continuity, time and consistency were needed for progress to be made. However, Mexico was ready to try to establish the conditions for full observance of the rights enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination.

26. Mr. de GOUTTES (Country Rapporteur) paid tribute to Mexico's rich cultural heritage, which had profoundly influenced its modern-day society. He also commended the fact that, in line with the Committee's recommendations on the submission of reports, Mexico had submitted its eleventh periodic report just 18 months after the tenth report and provided updated information on the radical changes under way in the country and particularly in the State of Chiapas. It consisted of five sections that had taken account of the concerns raised by the Committee during consideration of the report in 1995.

27. He had obtained information on the situation in Mexico from a range of sources. The sources included other United Nations bodies; the reports of the Special Rapporteur on torture (E/CN.4/1996/35 and Add.1); the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1996/38); and the conclusions of the Committee on the Rights of the Child (CRC/C/15/Add.13) and of the Committee on Economic, Social and Cultural Rights (E/C.12/1993/16); documents produced by NGOs, including the Anti-Racism Information Service (ARIS), Amnesty International and Human Rights Watch; a bulletin issued by the Mexican Human Rights Academy, 1995; a document produced by International Educational Development (E/CN.4/Sub.2/1996/NGO/6); a United States State Department report on human rights practices; a detailed report on racial discrimination in Mexico compiled by the Miguèl Agustin Pro Juarez Centre for Human Rights, the Fray Bartolomé de la Casas Centre for Human Rights and La Chinantla Indigenous Peoples' Organization; and finally, the report compiled by the Mexican League for the Defence of Human Rights.

28. The first question which arose related to discrimination on racial or ethnic grounds in Mexico, as defined in the Convention. He refuted the view of the Mexican Government that the only form of discrimination in Mexico was based on social and economic inequalities which affected the most vulnerable sectors of society. For the Committee, the marginalization and impoverishment of vulnerable groups amounted to discrimination under articles 2-5 of the Convention, not least because they were unable to participate in social and economic development, and were being perpetuated despite the legislative and other measures taken by the Government.

29. Although the Committee had requested information on the size of the indigenous population in Mexico and the 56 ethnic groups, details had not been forthcoming, since the delegation had previously expressed the view that it was discriminatory to break the population down according to race, ethnic group or religion. The approximations given, based merely on linguistic criteria, were not enough to give a true picture of the size of the indigenous population. It was also worrying that the delegation had stated in 1995 that

assessing the indigenous population was an even more complicated operation in that certain indigenous groups tried to hide their ethnic origins because of the connotations of poverty that went with them. More precise information should be provided in a subsequent report, as should information on the size of the immigrant population which, judging from section IV of the eleventh report, seemed to have grown considerably.

30. He asked how the situation had developed in the State of Chiapas since the outbreak of conflict in 1994 and the Government's decision to seek a political rather than military solution, as noted in the Committee's concluding observations in 1995 (A/50/18, para. 377). The detailed information provided in the eleventh report and in the oral presentation was welcome and seemed to indicate that positive developments were under way. However, information from various NGOs took a more critical view of what was happening in the State of Chiapas.

31. According to the report of the Miguel Agustin Pro Juarez Centre for Human Rights, the Commission for Monitoring and Verification of the Peace Agreements had been thwarted in its work as a result of government intransigence in the application of the San Andrés agreements on indigenous rights and culture and the fact that legislation proposed by COCOPA had not been put before Congress. The President of Mexico had been criticized for a lack of political will to implement the agreements and for his loss of political credibility among the populations concerned. The report also alleged that the army had gradually infiltrated the State of Chiapas and set up 30 bases, which had disrupted the environment and the life of the indigenous population. There were reports of prostitution and drug and alcohol abuse among indigenous communities. Personal freedom, including freedom of movement, had been severely curtailed.

32. There were also complaints that despite the growth in violence and human rights violations against the indigenous population, soldiers and law enforcement officials in Chiapas were going unpunished. It also seemed that a new guerrilla movement had emerged in Chiapas known as the Revolutionary People's Army (EPR), which, with other similar movements, had prompted an increase in the military presence. Such information was all the more alarming since 1997 had been intended as a year of transition in which a number of parliamentary and other elections would be held.

33. Although the eleventh report had tried to answer some of the questions raised by the Committee, particularly in sections I, II and IV, section V was not of relevance to the Committee; the Government should refer to the Committee's General Recommendation XVI concerning the application of article 9 of the Convention. The Government's interpretation of the extent to which it was implementing article 4 of the Convention still gave rise to concern. The Government was adamant that the Constitution guaranteed all the fundamental rights of all individuals without any discrimination on grounds of race, ethnic origin, political views, sex, nationality and so forth and therefore fully respected article 4 of the Convention; that view was not shared by the Committee since Mexican legislation did not provide for criminal proceedings to be brought against persons committing acts of racial or ethnic discrimination. Nor did it provide for sanctions against the dissemination of racist ideas, the incitement of racial hatred, the distribution of racist

propaganda or any of the other activities prohibited under article 4 of the Convention. Specific domestic legislation on that subject was necessary in any country, if only to prevent the emergence of acts of discrimination in any form and to show that a Government was committed to promoting tolerance and good inter-ethnic relations. It was to be hoped that the Government would heed the views of the Committee and fill the gaps in its penal legislation.

34. With regard to implementation of article 5 of the Convention and the right to equal treatment before the tribunals and all other organs administering justice, several NGOs had spoken of the difficulties which indigenous persons continued to face in their dealings with the courts, including the non-availability of interpreters and a shortage of staff able to ensure that the traditional legal practices of indigenous populations were taken fully into account. There were also allegations that judges were not independent, allegations of corruption in the legal system and calls for constitutional reform to ensure the effective separation of the executive, the legislature and the judiciary. He invited comments from the delegation on that subject and requested information on the number of arrests of indigenous persons, particularly the number of such persons held in pre-trial detention, and the percentages as compared with the rest of the population.

35. Members of the Committee had also expressed concern at previous sessions about acts of violence, torture, unlawful arrest, disappearances and other similar acts carried out by the security forces, paramilitary groups, private militias and landowners against indigenous populations, peasants, the residents of shanty towns and street children. The continued existence of such human rights violations, in Chiapas and elsewhere, had been recorded in reports of United Nations bodies and NGOs.

36. The report of the Miguel Agustin Pro Juarez Centre for Human Rights of March 1997, also cited the example of two paramilitary groups made up of elements of the security forces and the army which engaged in intimidation, arbitrary arrests and violence: the "Paz y Justicia" group, which had appeared in northern Chiapas in 1995, and, linked with it, the "Los Chinchulines de San Gerónimo Bachajón" group. Reference should also be made to the "Alianza Bartolomé de los Llanos" and the "Tomás Munzer" groups. Although the activities of those groups had been reported to the authorities, the same report asserted that their members appeared to enjoy de facto impunity.

37. The 1996 report of Amnesty International stated that many members of NGOs and human rights activists had themselves been victims of violence and intimidation, in particular activists of the Miguel Agustin Pro Juarez Centre for Human Rights.

38. The right to security of the person also concerned members of the immigrant populations who, particularly when they were without documents, were prey to abuse by the authorities and to human rights violations, as noted in paragraph 60 of the eleventh report. In that connection, he would like to know the results of measures taken by the National Human Rights Commission to put an end to practices which violated the dignity of migrants entering Mexico

via its southern border, referred to in paragraph 69 of the report; these measures were necessary to offset the control, expulsion and sanctions machinery set up elsewhere to deal with migrants.

39. With regard to the right of indigenous persons and peasants to their land, which was essential not only for their subsistence but also for their identity, the Committee could only reiterate its concern about the inequitable treatment of indigenous peoples in the land distribution process and the negative impact of the amendment to article 27 of the Constitution, which, according to the above-mentioned NGOs, might well violate the inalienable nature of collective land. In particular, he would like to know how the government authorities had responded to the agrarian demands of the ZNLA. Those same NGOs continued to criticize the Government's failure to address the violent land conflicts in rural areas and the intimidation by landowners and big companies of indigenous persons and peasants. He asked the delegation of Mexico to comment. Also, what had been the practical effect of the creation of the Government Procurators' Offices responsible for agrarian questions, the agrarian courts and the national programme PROCEDE?

40. On the question, of economic and social rights, the Committee had noted in 1995 that the economic situation of the indigenous communities appeared to have worsened further since Mexico had acceded to the North American Free Trade Agreement (A/50/18, para. 383). In that connection, he asked the Government to provide the Committee with more specific information on the rates of unemployment, homelessness, crime, incarceration, drug addiction, alcoholism, prostitution, suicide, illness, mortality and illiteracy of the most underprivileged social groups, namely indigenous persons, peasants and immigrants. The next report should also contain further details on the number of indigenous persons elected to Parliament and holding employment in the civil service and figures for inter-ethnic marriages.

41. Turning to article 6 of the Convention, he requested, for inclusion in the next periodic report, complete statistics on the number of complaints, investigations, court cases, sentences and acquittals, as well as compensation paid in connection with all categories of racist offences, notably acts of violence, incitement to racial hatred, participation in racist groups and racial or ethnic discrimination in employment, housing and welfare assistance. It would also be useful to know whether human rights bodies or associations representing certain population groups could take action before the courts or lodge complaints on behalf of persons whose interests they represented. Finally, did the Government envisage making the declaration under article 14 of the Convention to allow individual communications to the Committee?

42. With regard to article 7 of the Convention, he reiterated a question asked in 1995, namely whether specific legislation was planned expressly enshrining the principle of bilingual and bicultural education and guaranteeing its implementation in schools and universities.

43. Lastly, the Committee would like information on the measures taken by the Government to publicize its periodic reports to the Committee as well as the latter's conclusions and observations, and ensure proper human rights training for law enforcement officials.

44. In view of the seriousness of the problems encountered in Mexico, it would be preferable for the next periodic report to be submitted in 1998.

45. The CHAIRMAN, speaking in his capacity as a member of the Committee, noted that reference had been made in paragraph 61 to the role of consulates and that the representative of Mexico had elaborated on that question in his introduction. It occurred to him that consulates had a wealth of information on the way nationals were treated in other States, but it had never been systematically tapped. As most States were reluctant to avail themselves of the procedure under article 11 of the Convention, it might be possible for the countries of a given region to pool information on the subject before passing it on to the international treaty-monitoring bodies.

46. Mr. ABOUL-NASR pointed out that, in its concluding observations, the Committee had merely requested an updating report, and not one that entered into the implementation of every article in detail. In his view, Mexico had complied with the Committee's request.

47. Mr. WOLFRUM said that, to his mind, a number of questions remained open. Paragraphs 73-76 seemed to suggest that the United States was violating the Convention in its treatment of Mexican migrants; if that was the case, had Mexico considered making use of article 11 of the Convention to address the issue?

48. The main problem, which had been mentioned by the Country Rapporteur and had already been touched upon a year and a half previously, concerned what appeared to be an institutionalized form of discrimination in Mexico. It was difficult to deny that the areas predominantly inhabited by indigenous persons were greatly disadvantaged: poverty rates there were very high, [illegible]literacy three times the national average and school attendance very low. Although it might be argued that that was not intentional, he reminded the representative of Mexico that under the Convention a State was required not only to combat racial discrimination but also to take affirmative action to help disadvantaged groups. Yet neither the current nor the previous report had contained any indication that that was being done effectively. The representative of Mexico had argued that such disparities had more to do with socio-economic factors than with any distinction between ethnic groups, but it was clear that social and ethnic factors overlapped.

49. It was inconceivable that no complaints had been lodged or persons prosecuted for crimes committed in connection with the Chiapas conflict; that matter must be further clarified in the next report.

50. Turning to paragraph 39, subparagraphs (a)-(d), he said that those were excellent premises; he sought further information on their impact.
In connection with paragraph 42, it was not sufficient simply to deny reports that supplies to certain ethnic groups in the conflict area had been cut off; further explanation was needed.

51. The information in the report on the amendment to article 27 of the Constitution was insufficient. He considered that amendment to be detrimental to the future development of indigenous peoples, who had different attitudes towards land use and property. It was not necessary for every indigenous

person to have a piece of land. If it was more in line with their culture to have community land, he failed to understand why that possibility had been abolished. He sought further clarification of that situation and asked the Government to reconsider the amendment, which ran counter to the interests of indigenous persons.

52. Ms. ZOU Deci said that the report made no mention of persons who had been wrongly arrested and tried. Was any provision made for the payment of compensation in such cases?

53. She sought further information in connection with the statement in paragraph 39 (a) that the deep socio-economic inequalities which affected indigenous peoples particularly badly must be acknowledged and dealt with. Could the delegation of Mexico elaborate on those inequalities?

54. She had read in an NGO report the allegation that indigenous persons in Mexico had no representation whatsoever in that country's Parliament. She inquired whether that was the case and, if not, what percentage of seats in Parliament were held by indigenous persons and whether that figure was commensurate with their numbers within the total population. Also, did any indigenous persons hold important offices in the Government? Had any measures been taken so that indigenous persons could make their voices heard?

55. The education of indigenous persons was a fundamental issue. If no importance was attached to education for indigenous persons, then their socio-economic status could not be improved. She asked for additional data on the percentage of indigenous children attending school and on illiteracy rates in the indigenous population. If nothing was done to remedy the socio-economic situation of the indigenous peoples, who were among Mexico's poorest, then a host of other problems would likewise go unresolved.

56. Mr. VALENCIA RODRIGUEZ, welcoming the legislative and administrative measures taken to promote the peace process in Chiapas, and noting the important activities undertaken in the framework of the indigenous affairs programme referred to in the report (para. 5), asked whether the records of the 6,858 indigenous persons held in various detention centres (para. 8) gave reasons for their detention. As he interpreted that paragraph, it meant that some 6,000 persons had not been released.

57. In paragraph 12, reference had been made to the use of indigenous translators at trials to assist indigenous persons who did not speak Spanish. What had been the impact of that measure?

58. He had received a report from the Mexican League for the Defence of Human Rights asserting that there was a permanent military presence not only in Chiapas but in 27 of the 31 States and that indigenous persons were harassed, detained and even tortured and murdered by members of the armed forces or the police. Peasants and indigenous persons did not enjoy freedom of movement; the militarization of large parts of the country prevented political participation and favoured certain groups allied with the official party and the landowners. The League had alleged that attacks by paramilitary gangs had been continuing and cited incidents in the community of Aguas Blancas in Palenque, which had led to 30 families being displaced, and in the

region of San Cristóbal, which had resulted in 450 persons fleeing their communities. He asked the delegation to comment on those allegations.

59. Paragraph 51 of the eleventh report stated that the Mexican migration authorities had warned foreigners to leave the State of Chiapas for their own safety. The League asserted that that was a pretext in order to keep out foreign observers, who could see the grave situation there brought about by the militarization and the activities of paramilitary gangs, and would thus be prevented from showing solidarity with vulnerable communities. He requested the delegation to comment on that allegation as well.

60. He wished to express solidarity with Mexico in its efforts to protect its citizens abroad. Although the concerns voiced in section V of the report fell directly within the ambit of article 11 of the Convention, the sovereign right of a State to regulate the flow of foreigners across its borders must be recognized. However, such a right should be exercised in a manner which did not violate the fundamental and inalienable human rights of other persons, irrespective of their nationality or race or States parties' interpretation of the Convention.

61. In conclusion, he said the report submitted by Mexico represented a positive step towards continued dialogue between the Government and the Committee.

62. Mr. van BOVEN suggested that the Committee should in future give States parties a clearer idea of what was expected from updating reports. In that regard, he found the Mexican report of great interest in many respects, but he did not find much information in response to the concluding observations reached in 1995, particularly those contained in paragraphs 387-398 of the Committee's report (A/50/18). He highlighted the issue of land rights, as addressed in paragraph 393 of the report, and the amendment to article 27 of the Mexican Constitution. Those matters had not been adequately treated in Mexico's eleventh report.

63. On the other hand, he noted that section I of the report gave facts and figures in response to paragraph 395 of the concluding observations concerning complaints of violations of the rights of indigenous peoples and the activities of the National Human Rights Commission. It would be useful to have further details on the role of that Commission in the following report.

64. Developments in the peace process in Chiapas, as presented in section III, were encouraging and positive, as was the additional information provided by the delegation. However, it appeared that there were striking differences in the perception of facts and developments on the ground. For example, the information given in paragraph 51 of the report contradicted the notion of progress, and furthermore, reports from various sources described the suspension of peace talks and extensive non-compliance with agreements, including ILO Convention No. 169. Also of particular concern was the existence of paramilitary units, allegedly operating with the cooperation of the authorities. He invited the delegation to comment further on the situation in Chiapas.

65. He appreciated the Government's concern to protect its citizens migrating to the north, and acknowledged that Mexico had played a prominent role in the drafting of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He took the opportunity to express the Committee's concern at the fact that few countries had ratified that Convention. In tackling the problems encountered by Mexicans migrating northwards, he suggested the possibility of referring to the situation when the State party in question appeared before the Committee, as one course of action. In addition, there was the procedure laid down in article 11 of the Convention; a third possibility would be for the Committee to bring the situation to the attention of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

66. In connection with paragraph 15, he said that, as a matter of justice, the policy of promoting the autonomy of indigenous peoples should always be pursued. He expressed the hope that such a policy would prevail in Mexico.

67. Mr. FERRERO COSTA commended the timely reporting of the Mexican Government, but pointed out that not all the relevant points had been covered in the eleventh report. He therefore hoped that Mexico's next periodic report would resolve the outstanding issues.

68. He described the situation of the indigenous peoples as the main problem facing Mexico. The Committee was particularly concerned at the problem of the marginalization of indigenous groups vis-à-vis the rest of the population.

69. The situation in Chiapas had had an impact beyond the borders of Mexico and had led the Mexican Government, in recent years, to adopt a series of policies and measures for the promotion of human rights. What was lacking was the practical execution of programmes which would benefit indigenous peoples. The Committee was keen to know how the political resolve demonstrated through legislative measures would be implemented. He reiterated the Committee's concern at the ill-treatment of Mexican migrants.

70. Notwithstanding the explanation given in paragraphs 62 and 63 of the core document on Mexico, it was still not clear to the Committee how the Convention was incorporated into the federal and State legal systems, or whether the provisions of the Convention could be directly invoked before the courts. He asked the delegation to explain exactly how human rights treaties would be incorporated into domestic law at both the federal and State levels.

71. The implementation of article 4 was of crucial importance, and he recalled that the Committee had expressed its concern about such implementation in Mexico as early as 1991. Paragraph 3 of the report had taken up the issue but there remained a need for further information on internal discussions aimed at reforming the Federal Penal Code. He reminded the Government that all States parties had a clear and strict obligation to enact specific legislation declaring the dissemination of ideas based on racial superiority or acts of incitement to racial discrimination to be punishable offences.

72. Mr. YUTZIS said that contradictory statements appeared to have been made regarding the status of the San Andrés agreement, mentioned in paragraph 41 of the report. While the delegation had said the Government adhered to the provisions of that agreement, other sources had said the agreement had been suspended, and still others had claimed that the Government had made a counter-proposal. In his opinion, a counter-proposal would undermine the objectives of the original agreement. He therefore asked the delegation to clarify the Government's position on implementation of the agreement.

73. There had also been disturbing reports of repressive acts perpetrated by law enforcement bodies, including violence and arson, which had resulted in the displacement of a number of persons in certain regions. The annual report of the International Work Group on Indigenous Affairs (IWGA) had reported on the partial and unilateral granting of funds to cooperatives which supported the position of the Mexican Government. Bearing in mind the importance of the link between land, labour and identity, he believed such reports had serious implications. Partiality in the management of funds did not allow the development of micro-businesses, which were a crucial factor for the survival of the groups concerned. He therefore asked the delegation to comment on those reports.

The meeting rose at 6.05 p.m.